

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TAMMY M. WEAVER,)	CASE NO.1:12CV1232
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
Vs.)	
)	
MICHAEL J ASTRUE,)	ORDER
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J:

This matter is before the Court on the Report and Recommendation of the Magistrate Judge that the case be dismissed, without prejudice, for failure to timely serve Defendant. For the following reason, the Court accepts and adopts the Magistrate Judge;s recommendation and dismisses Plaintiff’s Complaint without prejudice.

Plaintiff filed her Complaint on May 17, 2012. On May 21, 2012, this case was referred to the Magistrate Judge pursuant to an automatic referral under Local Rule 72.2. On September 14, 2012, the Magistrate Judge issued Notice to Plaintiff that she had failed to serve Defendant and ordered Plaintiff to show proof of service by September 18, 2012, or show good cause why she failed to timely serve Defendant by September 21, 2012. Plaintiff

failed to offer proof of service or show good cause by the dates set by the Magistrate Judge. On September 25, 2012, the Magistrate Judge issued her Report and Recommendation recommending that the Complaint be dismissed without prejudice, pursuant to Fed. R. Civ.P. 4(m), for failure to perfect service on Defendant within 120 days of filing the Complaint. In response to the Magistrate Judge's Report and Recommendation, Plaintiff filed a Motion to Extend Time for Service on September 28, 2012, contending her failure to serve Defendant was an inadvertent mistake.

Under Federal Rule of Civil Procedure 4(m), the Court, on its own motion, must dismiss an action without prejudice against any defendant not served within 120 days after the filing of the complaint or order service within a certain amount of time. Here, Plaintiff failed to respond to the Magistrate Judge's Order of September 14, 2012, and subsequently has not demonstrated good cause for failing to timely serve Defendant. Therefore, the Court accepts and adopts the Magistrate Judge's Report and Recommendation and dismisses, without prejudice, Plaintiff's Complaint.

IT IS SO ORDERED.

s/ Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

Dated: October 3, 2012